



Water Quality NewsFlash

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Ocean Plan – Board hears both sides –The State Water Resources Control Board is planning to revise four key components of the water quality standards in the Ocean Plan. Board staff held a public scoping meeting January 23, and the staff then made a follow-up presentation to the Board on February 3. The Board heard testimony from environmental groups and discharger organizations. The changes are controversial, in particular, the proposal for NPDES permits with special conditions for stormwater discharges into the state's 34 *State Water Quality Protection Areas* (SWQPA). Approximately 1400 such discharges were identified in a state survey. The Board currently interprets the Ocean Plan as banning these discharges.

Board members expressed concern over delays in implementing proposals from past triennial reviews. Future action on this proposal package is unclear, however, it appears that the Board staff will hold more workshops on the proposed changes. It is unlikely that the staff will be able to bring a final proposal to the Board for approval in June as had been planned. Ocean Plan proposed changes and related information: <http://www.swrcb.ca.gov/plnspols/oplans/> Article: <http://www.latimes.com/news/local/pilot/news/la-dpt-runoff03feb03.1.7728891.story>

Enforcement Actions – BCT/BAT and WQS – An interesting case, which was heard by the Central Valley Board on January 30, illustrates the difference between: (1) controlling construction site runoff pollutants to the BCT/BAT level, and (2) prevention of exceedances of water quality standards. Although the terms BCT: “best conventional pollutant control technology,” and BAT: “best available technology economically achievable” seem to imply that no additional controls are possible, the Construction General Permit does in fact require more. “The SWPPP developed for the construction activity covered by this General Permit shall be designed and implemented such that storm water discharges and authorized nonstorm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards ...” Consequently, WQS must be attained even if this requires controls beyond BCT/BAT.

Although not clearly defined, BCT/BAT in construction refers to a generally accepted standard suite of best management practices. However, in some situations such as heavy storms or clayey soils, runoff can exceed WQS even with BCT/BAT controls in place. In the case before the Central Valley Board, the discharger contends that they went beyond BCT/BAT and installed extra controls including flocculation. Regardless, Central Valley staff proposed an Administrative Civil Liability Order with a fine of \$571,000. The Board members, however, decided to refer the case to the State Attorney General meaning the case will be decided in Sacramento Superior Court with the potential for higher fines.

<http://www.sacbee.com/content/politics/ca/story/8207272p-9138387c.html>

Municipal (MS4) runoff is regulated differently; the minimum standard is pollutant control to the “maximum extent practicable” (MEP). Although not required by federal law, California MS4 permits also specify compliance with WQS, however, this is accomplished through an iterative process and exceedance of standards does not necessarily mean permit noncompliance.

WQ NewsFlash is a weekly update of storm water and related news for the Department. *Verify information before taking action on these bulletins.* Contact Betty Sanchez, Betty_Sanchez@dot.ca.gov (916) 653-2115, or Fred Krieger, (510) 843-7889, fkrieger@msn.com with questions or to be added or deleted from e-mail list. Posted online at <http://www.dot.ca.gov/hq/env/stormwater/index.htm> Click: *Storm Water Bulletins*